



# **Agricultural Operations: Soil & Water Quality Conservation Assessment/Plans**

Guidance for Tidewater Virginia Localities

*December 2002*

## **Purpose:**

This document provides local planners, officials, and Soil and Water Conservation District Boards with guidance on the agricultural requirements of the Chesapeake Bay Preservation Act (the Act) and the Chesapeake Bay Designation and Management Regulations (the Regulations). This document provides general guidance on the assessment and conservation planning process. Additional, technical guidance is available in the Regulations and in the Appendices of this document.

## **Regulations:**


- Section 9 VAC 10-20-120.9 of the Regulations requires agricultural landowners within locally designated Chesapeake Bay Preservation Areas to protect water quality by maintaining vegetated buffers adjacent to RPA features and by having a soil and water quality conservation assessment conducted that evaluates the effectiveness of existing practices pertaining to soil erosion and sediment control, nutrient management, and the management of pesticides. These assessments will, where necessary, result in a conservation plan that outlines additional best management practices needed to ensure the protection of water quality.
- Section 9VAC 10-20-120.9.c of the Regulations requires that findings and recommendations of such assessments and any resulting soil and water quality conservation plans will be submitted to the local Soil and Water Conservation District Board, which will be the plan-approving authority.
- Section 9VAC10-20-130.5 sections (4) and (5) clarify that the local government has the authority and obligation to enforce the agricultural criteria of the Regulations.

## **Discussion:**

The Regulations as amended and made effective March 1, 2002 added an intermediate step in the conservation planning process. Specifically, Soil & Water Quality Conservation Assessments are to be performed before the development of complete conservation plans. This addition originated during the regulatory revision process that began in 1996. As a result of that process, the agricultural work group, a compilation of non-government stakeholders, recommended the assessment approach to improve the efficiency of the agricultural program. At this writing, a preliminary assessment has been developed for typical Tidewater Virginia cash grain operations. The assessment will be a working, evolving tool. During its evolution, DCR-CBLA will continue to work in conjunction with the natural resource partners and stakeholders to develop a process that meets the regulatory requirements and provides economy over the current Soil and Water Quality

Conservation Plan process. The initial draft of the assessment process, as outlined in Appendix A should enable the conservation planner to spend more time with farmers/landowners whose environmental constraints require more in-depth conservation analysis. Additionally, the conservation planner may develop any necessary elements of a SWQCP, or require specific corrections of identified pollution problems within specific time frames as outlined in the regulations.

#### Soil & Water Quality Conservation Plan (SWQCP):

Once the assessment has been completed, it may reveal the need for the implementation of additional BMPs to protect water quality. If that is the case, a conservation plan will be developed that outlines the installation and implementation schedule for the additional BMPs necessary to ensure water quality protection consistent with the Act. For agricultural activities that occur outside of the 100-foot buffer, this plan need only address the predominant water quality issues – nutrient management or erosion control. Similarly, for those agricultural activities that occur outside the landward 50-feet of the buffer, this plan need only address the predominant water quality issue – nutrient management or erosion control. Agricultural activities that occur within the landward 75 feet of the buffer must implement all appropriate nutrient, erosion, and pesticide management BMPs necessary to ensure water quality protection equivalent to the full 100-foot buffer. Such plans, addressing nutrient, erosion, and pesticide management are known as Soil & Water Quality Conservation Plans (SWQCPs). SWQCPs are more comprehensive than the conservation plans that are required as part of the federal Food Security Act of 1985 that only address erosion control on designated highly erodible lands 

#### Local Approval of Assessments and Plans

Upon completion, assessments, plans, or SWQCPs must be reviewed and approved via the established local review process. The local Soil and Water Conservation District (SWCD) Board of Directors must approve plans or SWQCPs developed pursuant to the results of the initial assessment.

As mentioned earlier, Tidewater SWCD Boards are the “plan-approving authority” as stated in the Regulations. The established local review procedure involves initial review by a “Technical Review Committee” or TRC. Minimum TRC membership includes: SWCD Staff, SWCD Directors, local Virginia Cooperative Extension Agent, local NRCS Conservationist, CBLAD Agricultural Program Manager, local DCR Nutrient Management Specialist, and representation from the locality. Once an assessment, plan, or SWQCP has been reviewed for technical merit by the local TRC, it is presented to the local SWCD Board of Directors for approval. Such approval must be documented in the minutes of the meeting. In an effort to facilitate the SWQCP approval process, local SWCD Boards may designate a member of the Board as the official person to approve assessments, plans, or SWQCPs, which have been approved by the local TRC. This should only be done during months when the Board does not meet or during extraordinary circumstances. In these cases, local SWCD Board approval will be documented during the next scheduled Board meeting. The CBLAD supports this method based on the fact that and understanding that SWCD Boards are self governing entities. As such, ultimate authority and responsibility for assessment, plan, and the SWQCP Plan approval rests with them.

#### Local Enforcement:

Unlike the requirements of the Farm Bill, where the responsibility for compliance is the farmer’s, the responsibility for complying with the local ordinances developed pursuant to the Regulations lies

with the landowner. Enforcement of the agricultural requirements of the Regulations essentially falls within three basic categories: initial failure of the landowners to cooperate with the locality or conservation planner, failure of the landowner to implement the necessary BMPs as outlined in their plan to protect water quality, and encroachment into the RPA without prior local approval.

Revisions to the Regulations more clearly spell out the framework under which localities may operate to garner compliance. In general, the locality should see that BMP deficiencies are corrected within 18 months of the initial notification of non-compliance. This maximum period is consistent with those outlined in Virginia's Agricultural Stewardship Act, as outlined in § 10.1-559.3. et. seq. of the Code of Virginia. As with the Agricultural Stewardship Act, this period is a maximum, and not a minimum timeframe within which the landowner must correct the deficiencies noted. The locality must also ensure that immediate threats to water quality are addressed as soon as possible, while remaining flexible in its recommendations for the installation or implementation of the remaining BMPs.

#### Standards for Assessments and Planning:

- **Soil Erosion:** USDA Natural Resource Conservation Service's "Revised Universal Soil Loss Equation" will be used to estimate soil loss within each agricultural field. Where feasible, estimated soil loss shall not be allowed to exceed "T," as defined in the "National Soil Survey Handbook of 1996." In no case shall erosion be allowed to exceed the soil loss consistent with an "Alternative Conservation System" referred to as an "ACS" in USDA NRCS "Field Office Technical Guide."
- **Nutrient Management:** Whenever nutrient management plans are developed, they will be developed in accordance with the Virginia Nutrient Management Training and Certification Regulations (4VAC 5-15-10 et seq.).
- **Pesticide Management:** Whenever pesticide management recommendations are given, they will be consistent with the recommendations in the latest "Pest Management Guide" developed by Virginia Polytechnic and State University.

#### **Conclusions:**

- Tidewater Soil and Water Conservation Districts (SWCDs) are the assessment/plan/SWQCP approving authority as stated in the Regulations, §9 VAC 10-20-120.9.c;
- SWCD review of assessments and plans developed pursuant to the Regulations must include review by a local Technical Review Committee (TRC);

Minimum membership in the TRC shall include:

- SWCD elected Director
- SWCD technical staff
- NRCS technical staff
- Virginia Cooperative Extension agent
- DCR Nutrient Management Specialist
- Local Bay Act Program contact or their designee

- SWCD Boards may designate one director to approve assessment/plans/SWQCPs, which have been previously reviewed and approved by the TRC during months when the full SWCD Board does not meet; in these cases, local SWCD Board approval will be documented during the next scheduled Board meeting.
- SWCD approval of assessment/plans/SWQCPs performed or developed pursuant to the local Bay Act Program will be documented in the official SWCD Board meeting minutes.
- Compliance with the agricultural requirements is the responsibility of the landowner;
- Enforcement of the agricultural requirements are the responsibility of the locality;
- The locality should involve the SWCD during the development and/or review of mediation measures.